

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

CAPPSEALS, INC.,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 05-CV-11907-JLT
)	
DIRECT MARKETING CONCEPTS, INC., et)	
al.,)	
)	
Defendants.)	

AFFIDAVIT OF WAYNE CALLAHAN

I, Wayne Callahan, under oath declare as follows:

1. I am currently an independent contractor providing accounting and bookkeeping services to a number of businesses. Two of my clients are Direct Marketing Concepts (“DMC”) and ITV Direct, Inc. (“ITV”). Prior to becoming an independent contractor, I was employed as an accountant at the firm of Leo H. Bonarrigo, CPA for thirteen (13) years, and I have over twenty (20) years experience practicing as an accountant and preparing financial statements and related documentation. Mr. Bonarrigo and I were originally retained by DMC to serve as their outside tax accountants, and we continue in that capacity. I have also served as DMC’s outside accountant since its inception in 2001 and as ITV’s outside accountant since its inception in 2003. I make this affidavit on the basis of my own personal knowledge of the facts set forth herein and upon information and belief. As to those allegations stated upon information and belief, I believe the same to be true.

2. As the outside accountant for DMC and ITV, I have access to all of DMC’s and ITV’s financial books and records provided to me by management, and the related supporting bank documentation concerning all transactions in which DMC and ITV have engaged since

their inception. In performing my duties, I have reviewed all of these books, records and documents, and I have applied accepted accounting procedures and standards in preparing the company's financial statements, without reports therein.

3. DMC and ITV are separate business entities. They were incorporated several years apart and maintain separate bank accounts and separate accounting systems. They maintain separate general ledgers and file separate tax returns.

4. I have processed and maintained DMC's and ITV's financial books and bank records since each company's inception, and I am not aware of any fraudulent transfers of assets, any secretion of assets, or any destruction or alteration of any financial records. To the best of my knowledge, all transactions have been properly recorded

5. Upon information and belief, in 2003, ITV entered into a contract with Healthy Solutions, LLC for the rights to air an infomercial promoting a product known as Supreme Greens. In connection with the promotion of Supreme Greens, ITV purchased millions of dollars of media. The funds for the purchase of this media were provided from several sources, including advances of funds from DMC. DMC also provided administrative services to ITV. All of these transactions were subject to appropriate and detailed accounting, maintained on each company's general ledgers and accounting systems.

6. It was anticipated that ITV would repay all amounts owed to DMC during the course of running the infomercial program, likely after six to eight months. Given the extraordinary up-front expense of running a major advertising promotion, ITV ran at a significant loss early in the history of the program. Because the airing of the Supreme Greens advertising was unexpectedly cut short by the intervention of the Federal Trade Commission and

the Food and Drug Administration investigations, ITV never recouped these extraordinary up front costs from the Supreme Greens show.

7. As security for the advances of funds provided to ITV, the value of the inventory of Supreme Greens product was carried on the books of DMC. Again, the expectation was that this inventory would be moved to the books of ITV once DMC had recovered its advanced funds and overhead expenses. That never occurred.

8. In addition, as sales of the Supreme Greens product were made by ITV, the proceeds of those sales were credited to DMC to repay the advanced funds and overhead expenses incurred by DMC for providing telephone answering services, credit card processing and customer service. Once again, the forecast was for ITV to begin generating a profit at some point several months after the commencement of the advertising. That never occurred.

9. All of the transactions discussed above were properly recorded in the books of ITV and DMC, and all of the supporting records have been maintained. At no time has any “fraudulent” transfer occurred, nor have any funds been improperly removed from either company. To the contrary, both companies have been subject to a federal court order since 2004 prohibiting any such improper or non-business transfers. None have occurred. Likewise, there has not been any commingling of assets of either company.

Executed this 2nd day of December, 2005 in Beverly, Massachusetts.

/s/ Wayne Callahan
Wayne Callahan